



Paper 21

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**DEC 24 2002**

**OFFICE OF PETITIONS**

FISH & RICHARDSON, PC  
4350 LA JOLLA VILLAGE DRIVE  
SUITE 500  
SAN DIEGO CA 92122

In re Application of :  
Simon, et al. : **DECISION ON PETITION**  
Application No. 09/496,135 :  
Filed: 5 May, 1999 :  
Attorney Docket No. 06618/363002/CIT 2885-P2 :

This is a decision on the renewed petition under 37 C.F.R. §1.47(b),<sup>1</sup> filed on 2 December and supplemented via FAX on 18 December, 2002.<sup>2</sup>

The petition under 37 C.F.R. §1.47(a) is **DISMISSED as moot** upon the signing of the oath/declaration by the previously unavailable inventors.

This application is forwarded to Technology Center 2600 for the file bibliography to be updated to reflect the filing of the executed oaths/declarations before the file is forwarded to the Board of Patent Appeals and Interferences.

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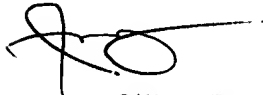
<sup>1</sup> The regulations at 37 C.F.R. §1.47, in pertinent part:  
**§1.47 Correction of inventorship in a patent application, other than a reissue application.**

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(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention or who otherwise shows sufficient proprietary interest in the matter justifying such action may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §17(l), and the last known address of all of the inventors. The Office shall, except in a continued prosecution application under §1.53(d), forward notice of the filing of the application to all of the inventors at the addresses stated in the application and publish notice of the filing of the application in the *Official Gazette*. An inventor may subsequently join in the application on filing an oath or declaration complying with §1.63.

<sup>2</sup> Pursuant to Petitioner's authorization, the petition fee (\$130.00) and the fee (\$200.00 for a two- (2-) month extension of time required to make timely the instant petition as a required reply to the 26 August, 2002, decision are charged to Deposit Account 06-1050.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-9199.

A handwritten signature in black ink, appearing to read "J. Gillon", with a stylized flourish extending to the right.

John J. Gillon, Jr.  
Senior Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy